

REMARKS

Claims 1, 4-10 and 12-14 currently appear in this application. The Office Action of May 13, 2004, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicants respectfully request favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Rejections under 35 U.S.C. 112

Claims 1-2 and 4-5 are rejected under 35 U.S.C. 112, first paragraph, the Examiner alleging that the specification, while being enabling for a method for determining the level of glucose and hemoglobin in a sample obtained from a hair follicle, saliva or urine of an individual, the specification does not reasonably provide enablement for determining a level of glucose in the blood of an individual by determining other than the level of hemoglobin in the blood.

This rejection is respectfully traversed. Claim 1 has been amended to recite that the volume of blood is determined by measuring the level of hemoglobin in the sample, which the Examiner does admit is enabled by the specification. Claim 4 has been amended to recite that the amount of blood or interstitial fluid is determined if present. Example 1 beginning on page 16 of the specification as filed describes

determining the level of glucose in blood or interstitial fluid.

Claims 7-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 7 and 8 recite the limitation "said red blood cells," and the Examiner states that there is insufficient antecedent basis for this limitation in the claims. Claim 10 is drawn to a "suitable diluent."

This rejection is respectfully traversed. Claims 7, 8 and 10 have now been amended to clarify the invention.

Art Rejections

Claims 6-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Paisey et al. Paisey et al. are said to teach glycosylation of hair and the measure of chronic hyperglycemia.

This rejection is respectfully traversed. Paisey et al. clearly do not disclose the kit of the present invention, as Paisey et al. teach methods for measuring glycosylated hemoglobin and fetal hemoglobin. Claim 6 has been amended to recite means for measuring the level of hemoglobin in the sample.

In view of the above, it is respectfully submitted
that the claims are now in condition for allowance, and
favorable action thereon is earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By


Anne M. Kornbau
Registration No. 25,884

AMK:msp
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\C\cohn\fish4\pto\22jun04.amd.doc